

Boiler Work in Progress: De Minimis Levels for Boilers Subject to Section 129

The following presents the work in progress on Section 129 de minimis levels. Included is (1) a discussion of a Section 129 de minimis level and (2) comments from two Work Group members supporting the discussion of de minimis levels.

Discussion - De Minimis Exemption for Boilers Burning Solid Waste

The non-fossil subgroup of the Boiler Work Group (BWG) is using a 5% de minimis level to determine the subcategory to which boilers are assigned. Approximately 50% of the boilers in the inventory database that are listed as burning solid waste are burning those materials at percentages of 5% or less. The emissions impact of burning small fractions of solid waste with a majority of fossil and/or non-fossil fuels is unknown at this time. Determining this impact is one goal in the BWG Phase 1 Test Plan.

The de minimis issue is not a new issue to the ICCR process. The use of a de minimis level is mentioned in several existing ICCR documents, such as the 5/18/98 P2 Subgroup recommendations document and the IWG RAP document. Also, EPA has used a de minimis exemption in other regulations where the resulting environmental impact was determined to be insignificant (i.e., MWC rule, acid rain program, stratospheric ozone, etc.).

This potential exemption would allow boilers burning a designated percentage of solid waste to be excluded from regulation under CAA section 129. The BWG has not reached consensus on the use of a de minimis exemption for boilers burning a small percentage of solid waste, but the group does feel that the issue must be addressed. The decision should be based on data that shows an exemption would or would not have a significant environmental impact. An exemption may cover all solid waste, or a defined subset of solid waste. The appropriate percentage value must also be determined. The Boiler Work Group recommends that EPA evaluate and make a determination on the use of a de minimis exemption for boilers burning a small percentage of solid waste.

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Work Group Member Comment on Discussion of Section 129 De Minimis Levels

I support the de minimis exemption draft document. However, to satisfy environmental concerns, we should close the loophole concerning what is being burned at less than 5 percent. The "loophole" I mean involves the low temperature, non-GCP combustion of substances that result in the airborne distribution of extremely hazardous by-products. The public health could be protected if any boiler operator claiming the <5% de minimis exemption will also certify that their air emissions would not violate the "health effects standards" for their state or local air district and that the boiler is operated using GCP standards. To be enforceable, this certification could be made part of the operator's Title V or state air permit. The basis of certification could be empirical stack test results, laboratory analysis, or verifiable technical literature such as EPA's AP-42 or germane studies from ASTM, API, etc.

Submitted by: Coleman Kavanagh
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Work Group Member Comment on Discussion of Section 129 De Minimis Levels

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TO: Mr. Jim Eddinger
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FROM: Michael Blumenthal

RE: Boiler Work Group de minimis Exemption Draft.

DATE: September 4, 1998

In regard to the above referenced document, I would like to submit the following comments concerning the above referenced documents.

The Scrap Tire Management Council agrees with and supports the comments of Mr. Coleman Kavanagh on the above referenced document.

Should you wish to discuss this matter further, please contact me the Scrap Tire Management Council. On behalf of the Council, I appreciate this opportunity to comment on the referenced document.